Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1. a. Whether there should be additional reimbursement for date of service 05/07/01?
   b. The request was received on 04/01/02.

II. EXHIBITS

1. Requestor, Exhibit I:
   a. Initial TWCC-60 and Letter Requesting Dispute Resolution dated 06/25/02
   b. HCFA-1450s
   c. EOBs
   d. Medical Records
   e. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.

2. Respondent, Exhibit II:
   a. TWCC-60 and Response to a Request for Dispute Resolution dated 07/17/02
   b. Reimbursement data
   c. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.

3. Per Rule 133.307(g)(3), the Division forwarded a copy of the requestor's 14-day response to the insurance carrier on 07/05/02. Per Rule 133.307(g)(4), the carrier representative signed for the copy on 07/08/02. The response from the insurance carrier was received in the Division on 07/18/02. Based on 133.307(i) the insurance carrier's response is timely.

4. Notice of Medical Dispute is reflected as Exhibit III of the Commission's case file.

III. PARTIES' POSITIONS

1. Requestor: letter dated 06/25/02
   "Texas Administrative Code Section 133.304 specifically provides 'the explanation of benefits **shall include the correct payment exception codes** required by the Commission's instructions.'… Based upon the initial denial presented by the Carrier, it is the requestor's position that the Carrier is required to pay the entire amount in dispute."

2. Respondent: letter dated 07/17/02
   "…(Carrier) believes it has made a fair and reasonable payment for the services provided…"

IV. FINDINGS

1. Based on Commission Rule 133.307(d)(1&2), the only date of service (DOS) eligible for review is 05/07/01.

2. The provider, an ambulatory surgery center, billed a total of $5,865.54 on the DOS in dispute.

3. The carrier reimbursed $569.00 and the EOB has the denial "M – THE REIMBURSEMENT FOR THE SERVICE RENDERED HAS BEEN DETERMINED TO BE FAIR AND REASONABLE BASED ON BILLING AND PAYMENT RESEARCH AND IS IN ACCORDANCE WITH LABOR CODE 413.011(B) – FAIR AND REASONABLE REIMBURSEMENT FOR THIS ENTIRE BILL IS MADE ON THE 'OR SERVICE' LINE ITEM."

4. The amount in dispute, per the TWCC-60, is $5,241.54; the difference between the billed amount and the amount reimbursed is $5,296.54.

V. RATIONALE

The medical documentation indicates the services were performed at an ambulatory surgery center. Commission Rule 134.401(a)(4) states ASCs, "shall be reimbursed at a fair and reasonable rate…"

Section 413.011(b) of the Texas Labor Code states, "Guidelines for medical services must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fees charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual's behalf. The Commission shall consider the increased security of payment afforded by this subtitle in establishing the fee guidelines."

Commission Rule 133.307(g)(3)(D) requires the provider to supply documentation that discusses, demonstrates, and justifies that the payment amount being sought is a fair and reasonable rate of reimbursement. The provider has not submitted any documentation of fair and reasonable reimbursement.

Commission Rule 133.304(i)(1-4) places certain requirements on the carrier when reducing the billed amount to fair and reasonable. The carrier has provided a satisfactory explanation of its methodology.

The provider's bill and TWCC-60 separates the various individual charges. However, the total amount billed is considered the "facility fee". Regardless of the carrier's response, denial codes or methodology, under the Act, there must be specific statutory authorization to create liability through waiver. The burden is on the provider to show that the amount of reimbursement requested is fair and reasonable and conforms to the criteria identified in Sec. 413.011(b) of the Texas Labor Code.

The requestor has not supplied documentation that would indicate the amount of reimbursement requested is fair and reasonable or the amount reimbursed by the carrier is not fair and reasonable. Therefore, no additional reimbursement is recommended.

The above Findings and Decision are hereby issued this 13th day of August 2002.

Larry Beckham
Medical Dispute Resolution Officer
Medical Review Division